

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Steven J. HARRINGTON **GROUP:** 2179
APPLICATION: 10/669,904 **EXAMINER:** T. Tran
FILED: September 24, 2003 **CONFIRMATION:** 5767
FOR: VIRTUAL PILES DESKTOP INTERFACE

**Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450**

Sir:

REPLY BRIEF FOR APPELLANT

This Reply Brief is being submitted in response to the Examiner's Answer dated January 28, 2008 in connection with the above-identified application.

I. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The issue is whether claims 1 and 23 are patentable over Czerwinski et al. (Published US Patent Application 2004/0066414) in view of Mander et al. (US Patent 6,243,742) in accordance with 35 U.S.C. §103.

II. ARGUMENTS

Claims 1 and 23 have been rejected under 35 U.S.C. §103 as being unpatentable over Czerwinski et al. (Published US Patent Application 2004/0066414) in view of Mander et al. (US-A-6,243,742). This rejection under 35 U.S.C. §103 is respectfully traversed.

Independent Claim 1

As set forth in the Clams Appendix of the previously filed Appeal Brief, independent claim 1 recites a method for managing a plurality of opened documents being displayed on an electronic desktop of an electronic device, an opened document being an application invoked created area on the electronic desktop of the electronic device by displaying a first icon associated with a first opened document in a predetermined form; displaying a second icon associated with a second opened document in the predetermined form; displaying a third icon associated with a third opened document in the predetermined form; and selecting the first icon associated with the first opened document being displayed on the electronic desktop of the electronic device; placing the first icon associated with the first opened document onto the second icon associated with the second opened document.

The method modifies an appearance of the first icon associated with the first opened document to display a first single line segment when the first icon associated with the first opened document is placed onto the second icon associated with the second opened document; displaying a virtual pile icon representing a virtual pile when the first icon is placed onto the second icon, the virtual pile icon having an appearance of the second icon in the predetermined form with the first single line segment representing the first icon associated with the first opened document thereunder.

The method further selects the third icon associated with the third opened document being displayed on the electronic desktop of the electronic device; places the third icon associated with the third opened document onto the virtual pile icon; modifies an appearance of the third icon associated with the third opened document to display a second single line segment when the third icon associated with the third opened document is placed onto the virtual pile icon; and modifies the appearance of the virtual pile icon, the virtual pile icon having the appearance of the second icon in the predetermined form with the first single line segment representing the first icon associated with the first opened document and the second single line segment representing the third icon associated with the third opened document thereunder.

As previously stated, Czerwinski et al. teaches, at paragraph [0037], and illustrates in Figures 2A and 2B, a method that creates a group icon **126**), having an appearance of an oval, when two icons (**118**, **120**) are joined together. As clearly illustrated by Czerwinski et al., in Figures 2A and 2B, the group icon **126** provides a border around the two icons (**118**, **120**) to illustrate the relationship; however, Czerwinski et al. teaches and illustrates that the oval appearance of the two icons (**118**, **120**) within the group icon **126** are maintained.

In contrast, independent claim 1 explicitly recites that an appearance of the first icon associated with the first opened document **is modified** to display a first single line segment when the first icon associated with the first opened document is placed onto the second icon associated with the second opened document. Furthermore, independent claim 1 explicitly recites that a virtual pile icon representing **a virtual pile is displayed** when the first icon is placed onto the second icon, the virtual pile icon having an appearance of the second icon in the predetermined form with the first single line

segment representing the first icon associated with the first opened document thereunder.

Moreover, in Figure 7, Czerwinski et al. teaches and illustrates that the oval appearance of the icons (**118**, **120**, and **140**) within the group icon **140** are maintained. As stated above, independent claim 1 explicitly recites that an appearance of the first icon associated with the first opened document **is modified** to display a first single line segment when the first icon associated with the first opened document is placed onto the second icon associated with the second opened document. Also, independent claim 1 explicitly recites that an appearance of the third icon associated with the third opened document **is modified** to display a second single line segment when the third icon associated with the third opened document is placed onto the virtual pile icon.

Although Czerwinski et al. teaches the creation of a group icon, the individual icons, which created the group, are **not** modified in appearance, but remain unchanged. Thus, Czerwinski et al. fails to teach or suggest that an appearance of the first icon associated with the first opened document **is modified** when the first icon associated with the first opened document is placed onto the second icon associated with the second opened document and/or an appearance of the third icon associated with the third opened document **is modified** when the third icon associated with the third opened document is placed onto the virtual pile icon.

In response to the argument above, the Examiner appears to cloud the issue in asserting that the Applicant is improperly attacking the individual references. This assertion is not relevant to the issue at hand because the Examiner asserts in the Examiner's Answer that Czerwinski et al. teaches that an appearance of the first icon associated with the first opened document **is modified** when the first icon associated with the first opened document is placed onto the second icon associated with the second opened document and/or an appearance of the third icon associated with the third opened document **is modified** when the third icon associated with the third opened document is placed onto the virtual pile icon.

If the Examiner is relying upon Czerwinski et al. to teach a certain limitation of the claim, it is proper for the Applicant to refute such an assertion by setting forth that attack the individual reference upon which the examiner bases the assertion.

Therefore, it is proper for the Applicant to argue that Czerwinski et al. fails to teach or suggest that an appearance of the first icon associated with the first opened document **is modified** when the first icon associated with the first opened document is placed onto the second icon associated with the second opened document and/or an appearance of the third icon associated with the third opened document **is modified** when the third icon associated with the third opened document is placed onto the virtual pile icon in response to the Examiner's counter assertion.

The Examiner further argues that the Applicant's remarks regarding the individual icons, which created the group, being **not** modified in appearance, but remain unchanged are not commensurate with the scope of the claim language.

Claim I explicitly recites the individual modification of the first icon and that this first icon makes up the group. Moreover, claim I explicitly recites the individual modification of the third icon and that this third icon makes up the group. Since claim 1 recites individual icon modification of icons which make up the group, the Applicant's arguments are commensurate with the scope of claim 1.

As noted previously, independent claim 1 recites a method that modifies an appearance of the first icon associated with the first opened document to display a first single line segment when the first icon associated with the first opened document is placed onto the second icon associated with the second opened document. Moreover, independent claim 1 recites displaying a virtual pile icon representing a virtual pile when the first icon is placed onto the second icon, the virtual pile icon having an appearance of the second icon in the predetermined form with the first single line segment representing the first icon associated with the first opened document thereunder.

In other words, the virtual pile icon of independent claim 1 includes the second icon in the predetermined form (unchanged) and the first single line segment representing the first icon (changed) associated with the first opened document.

This allows the majority of the virtual pile icon's visual identification to remain unchanged. By keeping the majority of the virtual pile icon's visual identification unchanged, a user can easily recognize the virtual pile and remember the contents thereunder. Moreover, the maintaining of the majority of the virtual pile icon's visual identification allows the use to insert documents into the pile using a single step without disrupting the visual identification of the virtual pile.

To address this deficiency in Czerwinski et al., the Examiner asserts that “**within the scope and spirit of the disclosed invention,**” Mander et al. suggests modifying an appearance of the first icon to display a first single line segment when the first icon is placed onto the second icon.

It is readily apparent from the Examiner’s remarks that the Examiner recognizes that Mander et al., on its face, fails to disclose or suggest modifying an appearance of the first icon to display a first single line segment when the first icon is placed onto the second icon. Notwithstanding, the Examiner is apparently asserting that somewhere in the nebulous and undefined realm of the “scope and spirit” of Mander et al., one of ordinary skill in the art would stumble upon a suggestion to modify an appearance of the first icon to display a first single line segment when the first icon is placed onto the second icon.

To address this argument, the Examiner points to Figure 3 of Mander et al. and asserts that Mander et al. “clearly” suggests the limitation of modifying an appearance of the first icon to display a first single line segment when the first icon is placed onto the second icon. More specifically, the Examiner asserts that Mander et al. “clearly” suggests when icon 105 is placed upon icon 103, the appearance of icon 103 is modified to display a first single line segment.

It is noted that the Examiner asserts that Mander et al. “clearly” suggests; meaning that there should not be any ambiguity in what Mander et al. illustrates.

In the Examiner’s Answer, the Examiner has provided a copy of Figure 3 from Mander et al. As clearly illustrated, when icon 105 is placed upon icon 103, the appearance of icon 103 is modified such that two (a length border and a first width border) of the four document icon borders are shown, along with a portion of the two other borders (a portion of a second length and a portion of a second width) wherein the other portions of the border are apparently hidden under icon 105 so that icon 103 displays the two full document icon borders and two partial document icon borders.

In other words, Mander et al. clearly illustrates that when icon 105 is placed upon icon 103, the appearance of icon 103 is modified to show at least four orthogonal line segments so as to illustrate a partially cover document. Such a clear illustration of a partially cover document cannot and does not “clearly” suggest to one of ordinary skill in

the art to modify an appearance of the first icon **to display a first single line segment** when the first icon is placed onto the second icon.

The Examiner further points to Figure 4 of Mander et al. and asserts that Mander et al. suggests the limitation of adding an icon to any place in the group and changing the appearance of the added icon to display a first single line segment.

In the Examiner's Answer, the Examiner has provided a partial copy of Figure 4 from Mander et al. However, as clearly illustrated in Figure 4, when an icon is placed in the pile, the appearance of icon is modified such that two (a length border and a first width border) of the four document icon borders are shown, along with a portion of the two other borders (a portion of a second length and a portion of a second width) wherein the other portions of the border are apparently hidden so that icon displays the two full document icon borders and two partial document icon borders.

In other words, Mander et al. clearly illustrates that when an icon is placed in the pile, the appearance of icon is modified to show at least four orthogonal line segments so as to illustrate a partially cover document.

Such a clear illustration of a partially cover document cannot and does not "clearly" suggest to one of ordinary skill in the art to modify an appearance of the icon **to display a single line segment** when the icon is placed within the pile.

In other words, Mander et al. clearly illustrates that when icon is placed in the pile, the appearance of icon is modified to show at least two orthogonal line segments so as to illustrate a partially cover document. Such a clear illustration of a partially cover document cannot and does not "clearly" suggest to one of ordinary skill in the art to modify an appearance of the icon **to display a single line segment** when the icon is placed into the pile.

With respect to Mander et al., Mander et al. teaches the ability to place the icon associated with the first document within the virtual pile. Moreover, Mander et al. teaches that this placement requires more than dropping the icon of the document onto the icon of the virtual pile. Mander et al. teaches that to place the icon associated with the first document within the virtual pile, the icon of the document is held over the virtual pile until the pile is partially de-stacked to show the user various available locations in which the icon can be placed. If the user desires a different location within the stack, Mander et al. teaches that a movement of the cursor will create another location or set

of locations for placing the icon. Once the location is selected, Mander et al. teaches that the user releases the icon to that location within the pile.

Mander et al. teaches this de-stacking of the pile for icon placement so that the virtual pile is a true replica of a physical pile of documents. When placing a physical document on top of a document pile, the document is physically on the top of the pile. In other words, Mander et al. teaches that when an icon representing a document is placed upon the top of an icon of a virtual pile, the icon representing the document is visually represented on top of the pile.

In response to this argument, the Examiner asserts that claim 1 does not recite limitations which commensurate with the Applicant's arguments. This assertion is contrary to the language of claim 1.

As set forth by independent claim 1, when the first icon is placed onto the second icon, an appearance of the first icon is modified to display a first single line segment and the appearance of the second icon remains on top of the virtual pile, as opposed to the appearance of the first icon being on top of the virtual pile if the system was faithfully replicating the characteristics of a physical pile.

Moreover, as set forth by independent claim 1, when the third icon is placed onto the second icon, an appearance of the third icon is modified to display a another single line segment and the appearance of the second icon remains on top of the virtual pile, as opposed to the appearance of the third icon being on top of the virtual pile if the system was faithfully replicating the characteristics of a physical pile.

In contrast, Mander et al. teaches that when an icon representing a document is placed upon the top of an icon of a virtual pile, the icon representing the document is visually represented on top of the pile. In other words, Mander et al. fails to teach or suggest that when an icon representing a document is placed upon the top of an icon of a virtual pile, the icon (claimed first icon) representing a document is changed in appearance to display a single line segment and the appearance of top of an icon of a virtual pile (claimed second icon) remains unchanged.

Moreover, Mander et al. fails to teach or suggest that when a second icon representing a document is placed upon the top of an icon of a virtual pile, the icon (claimed third icon) representing a document is changed in appearance to display a

single line segment and the appearance of top of an icon of a virtual pile (claimed second icon) remains unchanged.

Therefore, contrary to the Examiner's allegation, Mander et al., fails to suggest to one of ordinary skill in the art to modify an appearance of the first icon to display a first single line segment when the first icon is placed onto the second icon.

Therefore, since Czerwinski et al. and Mander et al. each singly fails to teach or suggest a method that modifies an appearance of the first icon associated with the first opened document to display a first single line segment when the first icon associated with the first opened document is placed onto the second icon associated with the second opened document, the combined teachings of Czerwinski et al. and Mander et al. fail to teach or suggest a method that modifies an appearance of the first icon associated with the first opened document to display a first single line segment when the first icon associated with the first opened document is placed onto the second icon associated with the second opened document.

Again, the Examiner clouds the issue by asserting that the Applicant has improperly argued the references separately. This is contrary to the explicit arguments presented by the Applicant.

As presented above, the Applicant has utilized a straight and permissible logic to demonstrate the failings of the Examiner's rejection. More specifically, the Applicant has utilized a logical approach to demonstrate that if Reference A fails to teach limitation X and Reference B fails to teach limitation X, the combination of the References must necessarily fail to teach limitation X. This logic does not represent impermissible arguing of the references individually.

In summary, Czerwinski et al. fails to teach or suggest a method that modifies an appearance of the first icon associated with the first opened document to display a first single line segment when the first icon associated with the first opened document is placed onto the second icon associated with the second opened document. Also, Mander et al. fails to teach or suggest a method that modifies an appearance of the first icon associated with the first opened document to display a first single line segment when the first icon associated with the first opened document is placed onto the second icon associated with the second opened document.

If both Czerwinski et al. and Mander et al., as individual references, fail to teach or suggest a method that modifies an appearance of the first icon associated with the first opened document to display a first single line segment when the first icon associated with the first opened document is placed onto the second icon associated with the second opened document, the proposed combined teachings of Czerwinski et al. and Mander et al. must necessarily fail to teach or suggest a method that modifies an appearance of the first icon associated with the first opened document to display a first single line segment when the first icon associated with the first opened document is placed onto the second icon associated with the second opened document.

Accordingly, for all the reasons set forth above, the Honorable Board is respectfully requested to reverse all the outstanding rejections. Also, an early indication of allowability is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Nickerson', with a stylized, cursive script.

Michael J. Nickerson
Registration No. 33,265
Basch & Nickerson LLP
1777 Penfield Road
Penfield, New York 14526
Telephone: (585) 899-3970
Customer No. 75931

MJN/mjn